DA won't file charges against officers

'Insufficient evidence' to prosecute police who fatally shot Perez Lopez

By Jonah Owen Lamb
S.F. Examiner Staff Writer

cover story

After an exhaustive and highly scrutinized investigation, the San Francisco District Attorney's Office has decided not to charge two police officers who fatally shot a man in the back more than two years ago in a Mission District incident that some have called a blatant example of police brutality.

District Attorney George Gascon made the call not to prosecute the officers who killed 20-year-old Amilcar Perez Lopez after long deliberation. Gascon has faced ongoing public pressure to charge the officers involved in the shooting on Feb. 26, 2015.

The decision, which would have been the first time Gascon chose to prosecute a police officer for shooting someone in San Francisco, came down to evidence, according to a report issued by the DA's Office detailing the investigation.

"Based on the facts, circumstances and applicable law in this matter, there is insufficient evidence to file any criminal charges against Officer [Eric] Reboli or Officer [Craig] Tiffe," reads the 25-page investigative findings released Wednesday.

The report stressed that the majority of witnesses either saw or heard the officers identify themselves as police, and that the officers were legally within their rights to defend the man Perez Lopez was allegedly threatening — two key points of contention that critics of the shooting had called into question.

The Perez Lopez shooting is one in a series of high-profile police killings that many activists have seen as a litmus test of how serious Gascon and his office are when it comes to holding police accountable when they kill people.

The police killings of Mario Woods in December 2015, followed months later of Luis Gongora in the Mission District and then Jessica Williams in the Bayview, all remain open cases before the DA's Office, which has the final say over whether any of the officers in these incidents face criminal charges.

Amilcar Perez-Lopez

COURTESY SF DISTRICT ATTORNEY'S OFFICE

An early crime scene photo, taken by a witness who lives near the scene, of the police shooting of Amilcar Perez Lopez on Folsom Street in San Francisco on Feb. 26, 2015.

JESSICA CHRISTIAN/S.F. EXAMINER

A large knife wielded by Amilcar Perez Lopez before he was shot was presented during the District Attorney's news conference at the Hall of Justice on Wednesday.

"[We] cannot bring charges unless we believe, before we do so, that ... we believe a crime occurred, that the person we are charging committed the crime and then, finally, that we have enough admissible evidence, beyond a reasonable doubt, to [bring charges]," Gascon said at a news conference Wednesday.

The decision not to charge the officers was seen as another example of police getting away with morally indefensible actions, said Fr. Richard Smith, the Vicar of St. John the Evangelist Episcopal Church in the Mission.

"Here's yet another case in which the DA has refused to file charges [against police officers]," said Smith, who has been involved in the case and led efforts to press for charges. "If ever there was a case that could have be prosecuted, this is it."

But the announcement was no surprise to Arnoldo Casillas, who is representing the Perez Lopez family in a federal civil rights lawsuit against the Police Department.

"We have always anticipated that the District Attorney would refuse to bring charges against the officers who killed Amilcar Perez Lopez. The long-awaited decision comes as no surprise," said Casillas. "Rarely, if ever, do prosecutors bring charges against police officers in shooting cases. Instead, as Mr. Gascon did today, prosecutors will make every effort to give the officers the benefit of every doubt."

THE REPORT

The report released Wednesday begins with a detailed account of the night of the shooting, including the accounts of numerous witnesses.

The report notes several versions of what led to the shooting, but begins with Perez Lopez chasing another man with a large knife. What started the dispute depends on which witness was asked.

Perez Lopez either attacked the victim — identified as Abraham P. — with a knife because he wouldn't sell him a bike, or he tried to attack him because Abraham P. had taken his cellphone. A third narrative, caught partially on Muni video and retold by roommates, involves a dispute between the two men outside 2843 Folsom St. According to one version, Abraham P. wouldn't let Perez Lopez in the building.

Whatever led to the dispute, a number of witnesses saw Perez Lopez chasing Abraham P. with a large kitchen knife.

According to the report, one witness who was out for a jog said the "man with the knife had an angry look on his face." The witness told investigators, "This was not just a fight ... He had a serious look like, 'I'm going to get him.' "

Another witness who was waiting for a bus said she saw Perez Lopez, who "went crazy" as he was running after Abraham P.

OFFICERS AND WITNESS STATEMENTS

On the night in question, at about 9:45 p.m., dispatch put out a call

See **No charges** *continued on page 10*

SFDPA - 0134-15 - 001801

Heidis

HAPPY EASTER

A Family Restaurant
OPEN 24 Hours A Day • 7 Days A Week
Excellent Food • Excellent Service
Breakfast • Lunch • Dinner

Heidis Pies PIES LIKE MOTHER USED TO MAKE
Our Famous All American
APPLE PIE . . . $7.99
Per Pie - A $16 Value
Maximum Two Apple Pies Per Person
Offer Good Only Friday, Saturday, & Sunday April 14th 15th & 16th, 2017 - With this coupon - While supplies last
(650) 574-0505 • 1941 S. EL CAMINO REAL • SAN MATEO

25% OFF Select Units For 2 Months!

It's SPRING!!!! And time to clear out all our clutter, get organized and ready for our up-coming Summer months. 5A can help with storage for all the extra stuff, to make room and make home comfortable!

Get One of These Before They're Gone...Prices hold for2 months!
4 x 6's were $71...Now $53.25
6 x 8's were $87...Now $65.25
kids 3 - 10 come in & get your Easter coloring contest! 1st, 2nd & 3rd prizes in each of 3 age groups.Something nice for Parents too!
Rent a unit & Move in with our FREE Van!
Select units limited, exp. 4/30/17
Keep tuned in for our next event on Social Media!
YouTube
AAAAA RENT A SPACE Store It Yourself & Save
1221 E. Hillsdale Blvd.
(650) 338-0071
www.5Aspace.com
Easy Access off Hwy. 92 in Foster City
SHOP OUR COMPLETE PACKING SUPPLIES INVENTORY

CRIME INK

Witnesses, evidence clears SFPD

No charges *continued from page 9*

noting two men were running after one another near 25th and Folsom streets. One of the men had a knife.

Tiffe and Reboli — both plain-clothes officers out of Mission Station — were on patrol in an unmarked car nearby when they heard the call. They responded as backup officers but ended up being the first police on the scene.

When they came upon the two men, they found Abraham P. standing in the road on one side of a Nissan as Perez Lopez stood on the other side.

The report is unclear on what language was used by the two men or how clear the officers' directions were due to language issues.

Reboli, who identified himself as a police officer, first approached Abraham P. and put Abraham P.'s hands behind his back as Tiffe approached Perez Lopez, who was struggling with the officer.

Tiffe said Perez Lopez looked like he was in some type of altered state, with an expression that looked "bloodlust crazed." Tiffe said he identified himself as an officer, but Perez Lopez seemed not to notice.

Tiffe pulled Perez Lopez away from the car, but Perez Lopez resisted and swiped at him.

That's when Tiffe noticed "a very large knife," drew his weapon and ordered Perez Lopez to put down the knife.

Just before that point, Reboli approached his partner to help him when he saw the knife in Perez Lopez's hand. When Perez Lopez began to run toward him, Reboli took a few steps back and tried to get out his pepper spray and pistol.

According to Reboli's account, he shouted either, "Police, drop the knife" or "Drop the knife," at Perez Lopez, who stopped for a moment, looked at both officers and then came toward Reboli while making slashing motions with the blade.

Reboli, who said he feared he was about to be stabbed, started firing his weapon, at which point Perez Lopez began to turn away. Perez Lopez took a few steps and then fell, dropping the knife.

Tiffe, who said he saw Perez Lopez "kind of moving in different directions," fired once because he believed Abraham P. was under threat.

A responding officer, Josh Cabillo, was told by Abraham P., "That officer saved my life; the officer in the tan pants just saved my life."

Abraham P.'s version of events, according to the report, were similar to that of the two officers.

OTHER WITNESSES

A roommate of Perez Lopez, identified as Delfino V., said he saw his roommate chasing Abraham P. and that Perez Lopez dropped his knife at the same time the two officers opened fire.

Another roommate, identified as David D., said, ""They fired on him immediately. When they said that, 'drop the weapon,' they didn't give him time and they fired at him.'"

David D. said he heard the knife hit the ground before the shots were fired.

A number of other witnesses either saw the officers pull their guns or heard the sound of gunfire but did not see the shooting.

In all, 15 witnesses gave information about the officers saying they were police. Four said they heard the officers identify themselves as police, five said they heard someone yell some version of "get to the ground," and six people heard yelling.

EXPERT CONCLUSION

Despite slightly differing accounts, the investigation concluded that the version of events as retold by the officers was consistent with the evidence.

"The officers' accounts describing what they observed as they reached the scene are consistent with the evidence. Contrary to stories circulated in the community that the altercation had been amicably resolved and Perez-Lopez was casually walking home alone by the time the officers showed up, overwhelming evidence confirms that the knife chase was still very much in progress when Officers Tiffe and Reboli arrived," reads the report.

The report addressed two inconsistencies in the officers' version of the incident but found that they do not "establish that the officers' accounts of the critical moments that led to their decision to discharge their weapons were fabricated."

The report noted that Reboli said Perez Lopez was coming at him when he fired, but the Medical Examiner's report noted multiple shots to Perez Lopez's back.

Charles Key Sr., a use-of-force expert used for the investigation, said that Perez-Lopez could have turned 180 degrees before Reboli realized.

"Reboli may have accurately recalled that Perez-Lopez was facing him when he made the decision to shoot and started the process of taking the first shot, but based on action versus reaction time, Perez-Lopez would have been able to turn 90 to 180 degrees by the time the first bullet hit him," Key said.

The report also touched on another possible inconsistency — whether Perez Lopez was still holding the knife at the time the officers opened fire — and found the weight of the evidence was consistent with the officers' statements.

VIDEO AND EVIDENCE AT THE SCENE

The investigation recovered nine separate videos of parts of the incident, but none caught the actual moment of the shooting.

A nearby ShotSpotter recorded the shots at 9:47 p.m.

Six bullet casings were found at the scene on the sidewalk where the officers and Abraham P. said they were during the shooting. Perez Lopez was found lying between two cars just in the street.

Reboli fired five rounds, and Tiffe fired one, according to the report's findings.

AUTOPSY

The San Francisco Medical Examiner's Office report on the shooting detailed that Perez Lopez was found with six gunshot wounds. He was struck four times in the back, once in the head and once in the arm.

According to the report, a separate independent autopsy was done at the request of Perez Lopez's family.

"Both reports essentially agreed on the location and trajectory of the six gunshot wounds," reads the report.

A toxicology report found that Perez Lopez had a blood alcohol level of .19 percent, which Chief Forensic Toxicologist Nikolas Lemos told investigators indicated that Perez Lopez was "very intoxicated at the time of the incident."

Perez Lopez's family, who have filed a federal civil rights lawsuit against the San Francisco Police Department, contends that Perez Lopez was shot and killed unlawfully and want the officers involved punished.

The Internal Affairs investigation into whether the shooting was justified according to department rules remains ongoing. Meanwhile, the Police Commission canceled its regularly scheduled Wednesday night meeting.

jlamb@sfexaminer.com

SFDPA - 0134-15 - 001802